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| 10/534,808 | 05/12/2005 | Alexis S R Ashley | GB 020193 | 5610 |

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| EXAMINER | |
|---|---|
| CHAI, LONGBIT | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2431 | |

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| 12/16/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/534,808 | ASHLEY, ALEXIS S R | |
| | Examiner | Art Unit | |
| | LONGBIT CHAI | 2431 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 May 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

**DETAILED ACTION**

1. Currently pending claims are 1 – 15.

***Response to Arguments***

2. Applicant's arguments with respect to the subject matter of the instant claims have been fully considered but are not persuasive.

3. Applicant asserts "Koike does not teach that the privacy policy identifying the usage data sought to be harvested and an intended use for the usage data is provided to the receiver or terminal, but is administered by a device between the server and receiver" (Remarks: Page 7 last line – Page 8 Line 3). Examiner respectfully disagrees because (a) a receiver as recited in the claim is interpreted as, in general, an integral parts of a receiver that receives the broadcasting information including not only the service / program data but also the privacy policy data from a broadcast server (Koike: Figure 1 / Element 100 and 120) – i.e. Examiner notes the integral part of a Terminal Device and a Privacy Data Administrator as a complete set of receiver is indeed qualified as a receiver having the complete capabilities to receive the broadcasting information including not only the service / program data but also the privacy policy data from a broadcast server, (b) the claim language "an intended use for the usage data" is interpreted as an purpose of collecting the usage data, which is also taught by Koike (Para [0032] Line 3 – 4) and accordingly (c) Koike also teaches "at said receiver determining whether a received privacy policy is acceptable; and if acceptable, at the receiver selecting from store the usage data identified in the privacy policy and transmitting the usage data to the sender of the privacy policy" (Koike : Para [0021] Line 7 – 10: provide / transmit the privacy usage data of

the user to the server upon the successful comparison between the privacy policy of the server and the privacy preference of the user)

4. Furthermore, with respect the same arguments, Examiner notes the other prior-art reference, namely, Nilsson et al. (U.S. Patent 2003/0041100) as set forth in the section of 102(e) Rejection of the Non-Final Office action (submitted on 7/11/2008) indicates that Nilsson teaches "if ***the user*** **or** user agent accepts the origin servers privacy policy, the CPI may be transmitted to the origin server (Nilsson: Para [0015] Line 6 – 8: Examiner note the user receives and accepts the origin servers privacy policy) and only minimal privacy information is provided to the origin server about a user (Nilsson: Para [0014] Last sentence: minimal privacy information meets the "usage data" in the claim) and as such Applicant's arguments are respectfully traversed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 7 and 9 – 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Koike et al. (U.S. Patent 2003/0084300).

As per claim 1, Koike teaches a method of harvesting usage data from a receiver (Koike : Para [0030] and Para [0013] Line 1 – 4) configured to detect and store such usage data (Koike

: Para [0036] Line 6 and [0046] – [0049]: privacy reference and direct identifier are part of the usage data, which also appears in the specification of the instant application), comprising:

providing to said receiver a privacy policy identifying the usage data sought to be harvested and an intended use for the usage data (Koike : Para [0036] Line 4 – 5, Para [0032] Line 3 – 4 and Para [0013] Line 3 – 4 & Figure 1 / Element 100 and 120: Examiner respectfully disagrees because (a) a receiver as recited in the claim is interpreted as, in general, an integral parts of a receiver that receives the broadcasting information including not only the service / program data but also the privacy policy data from a broadcast server (Koike: Figure 1 / Element 100 and 120) – i.e. Examiner notes the integral part of a Terminal Device and a Privacy Data Administrator as a complete set of receiver is indeed qualified as a receiver having the complete capabilities to receive the broadcasting information including not only the service / program data but also the privacy policy data from a broadcast server, (b) the claim language "an intended use for the usage data" is interpreted as an purpose of collecting the usage data, which is also taught by Koike (Para [0032] Line 3 – 4);

at said receiver determining whether a received privacy policy is acceptable; and if acceptable, at the receiver selecting from the store the usage data identified in the privacy policy and transmitting the usage data to the sender of the privacy policy (Koike : Para [0021] Line 7 – 10: provide / transmit the privacy usage data of the user to the server upon the successful comparison between the privacy policy of the server and the privacy preference of the user).

As per claim 9, Koike teaches an apparatus for harvesting of usage data comprising:

a receiver (Koike : Para [0030]);

monitoring and storage devices coupled with said receiver and arranged to detect and store usage data relating to a users operation of said receiver (Koike : Para [0036] Line 6 and [0046] – [0049]: privacy reference and direct identifier are part of the usage data, which also appears in the specification of the instant application);

an input to receive a privacy policy identifying usage data sought to be harvested and the intended use for the usage data (Koike : Para [0036] Line 4 – 5);

control devices coupled with said input and said storage devices and operable to determine whether a received privacy policy is acceptable (Koike : Para [0021] Line 7 – 10: by comparing between the privacy policy of the server and the privacy preference of the user); and

an output connectable to a back channel to a source of the privacy policy, the control device being arranged, on determination that said received privacy policy is acceptable, to select from said storage device the usage data identified in the privacy policy and transmit the usage data to the output (Koike : Para [0021] Line 7 – 10: provide / transmit the privacy usage data of the user back to the server (as a back channel) upon the successful comparison between the privacy policy of the server and the privacy preference of the user).

As per claim 2, Koike teaches the receiver presents a received privacy policy to a user, and acceptance or otherwise of said policy is determined by user input (Koike : Para [0040]).

As per claim 3 and 11, Koike teaches the receiver formats the received privacy policy prior to presentation to the user (Koike : Para [0040]: present in a form of inquiry to the user).

As per claim 4 and 12, Koike teaches the receiver stores privacy policy preference data for a user and, based on the same, determines automatically whether a received privacy policy is acceptable (Koike : Para [0036] Line 7 – 10: the controller determines automatically).

As per claim 5, Koike teaches determining acceptance includes a process of negotiation between the receiver user and the sender of the privacy policy (Koike : Para [0006] / [0036] / [0040] / [0147]: a negotiation process represents mutual agreements between the server and the user with respect to the privacy policy and privacy preference).

As per claim 6 and 13, Koike teaches a received privacy policy may be partly accepted, with only a part of the requested usage data being transmitted as a result (Koike : Para [0147] : not including all personal private information in all situations).

As per claim 7 and 14, Koike teaches the receiver removes direct identifiers for the user from the usage data prior to transmitting to the sender of the privacy policy (Koike : Para [0147] : the email address may be removed).

As per claim 10, Koike teaches an output device wherein the control means presents a received privacy policy to a user (Koike : Para [0040] and [0041]), and user input means by operation of which a user determines acceptance or otherwise of said policy (Koike : Para [0040]: based on the determination from the user terminal device).

6. Claims 1 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Nilsson et al. (U.S. Patent 2003/0041100).

As per claim 1, Nilsson teaches a method of harvesting usage data from a receiver (Nilsson : Para [0006]: from a remote web server) configured to detect and store such usage data (Nilsson : Para [0005]: personal usage profile is stored at the user side and communicated to the web sites), comprising:

providing to said receiver a privacy policy identifying the usage data sought to be harvested and an intended use for the usage data (Nilsson : Para [0006] Line 5 – 8 Para [0027] and Para [0014] Last sentence: Nilsson teaches "if ***the user*** **or** user agent accepts the origin servers privacy policy, the CPI may be transmitted to the origin server (Nilsson: Para [0015] Line 6 – 8: Examiner note the user receives and accepts the origin servers privacy policy) and only minimal privacy information is provided to the origin server about a user (Nilsson: Para [0014] Last sentence: minimal privacy information meets the "usage data" in the claim);

at said receiver determining whether a received privacy policy is acceptable (Para [0006] Line 5 – 8 : by comparing between the privacy policy of the server and the privacy preference of the user); and

if acceptable, at the receiver selecting from the store the usage data identified in the privacy policy and transmitting the usage data to the sender of the privacy policy (Para [0015] Line 6 – 10 and Para [0014] Last sentence: transmitted back to the original remote server).

As per claim 9, Nilsson teaches an for harvesting of usage data comprising:

a receiver (Nilsson : Para [0006]: from a remote web server);

monitoring and storage devices coupled with said receiver and arranged to detect and store usage data relating to a users operation of said receiver (Nilsson : Para [0005]: personal usage profile is stored at the user side and communicated to the web sites);

an input to receive a privacy policy identifying usage data sought to be harvested and the intended use for the usage data (Nilsson : Para [0006]: an input from a remote web server);

control device coupled with said input and said storage device and operable to determine whether a received privacy policy is acceptable (Nilsson : Para [0006] Line 5 – 8 : by comparing between the privacy policy of the server and the privacy preference of the user); and

an output connectable to a back channel to a source of the privacy policy, the control device being arranged, on determination that said received privacy policy is acceptable, to select from said storage device the usage data identified in the privacy policy and transmit the usage data to the output (Nilsson : Para [0015] Line 6 – 10: provide / transmit the privacy usage data of the user back to the original remote server (as a back channel) upon the successful comparison between the privacy policy of the server and the privacy preference of the user).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koike et al. (U.S. Patent 2003/0084300), in view of Blasko (U.S. Patent 2001/0049620).

As per claim15 (and 8), Keiko does not disclose expressly the broadcast receiver is a broadcast television receiver.

Blasko teaches the broadcast receiver is a broadcast television receiver (Blasko : Para [0083] / [0116] : a technique of digital cable television and set-top box is a also conditional access broadcast services and access technique).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Blasko within the system of Keiko because (a) Keiko teaches protecting the user privacy between the server and the user based on the privacy policy and privacy preference (Keiko: Abstract) and (b) Blasko teaches that the user privacy can be protected at many different levels, e.g., complete anonymous or based on the P3P agent that provides security and protects user private information such as name, address, or telephone number in accordance with the W3C Platform for Privacy Preferences Project (P3P) standards to negotiate access to data in the P3P data set in a targeted advertising environment such as broadcast television environment (Blasko : Para [0066] / [0006] / [0089] / [0092] / [0094]).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LONGBIT CHAI whose telephone number is (571)272-3788. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Longbit Chai/

Longbit Chai Ph.D
Primary Examiner, Art Unit 2431
12/09/2008